FARAD CONTINUATION SHEET NO.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

APPELLATE SIDE
Cri. WRIT PETITION NO. 2203 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders. Court's or Judge's orders

Mr. S. S. Manale & Rajesh Tenkar for Petitioner.
Mr. D. S. Mhaispurkar APP for State.

CORAM: B.H. MARLAPALLE
&
SMT. R.S. DALVI JJ.

DATE:19/1/2006

P.C.:

By this petition filed under Article 226 and 227 of the Constitution the Petitioner is praying for a declaration that the chargesheet filed by the Respondent nos. 2 to 5 before the Learned Magistrate on the basis of Petitioner's own complaint dated 8.3.2005 is illegal in view of the statement under section 160 of Cr.P.C., allegedly recorded on 8.5.2005 or thereabout.

The additional affidavit in reply filed by Shri K. N. Ingale, Police Sub Inspector, Malegaon Chavni Police Station, states that the chargesheet arising from C.R. No. 31 of 2005 for the offence punishable under sections 376

and 354 IPC., has been filed before the learned Magistrate on 19.5.2005 whereas the chargesheet arising from C.R. No. 32 of 2005, based on the basis of the complaint of Mr. R. M. Shinde, has been filed on 27.4.2005 for the offence punishable under sections 143, 342,365, 384 and 452 of IPC.

Mr. Mhaispurkar, the learned APP, on instructions from the police officer present in the court states that the chargesheet is filed on 19.5.2005 and the case has already been committed by the learned Magistrate under section 209 of Cr.P.C., to the Sessions Court. Thus entertaining this petition at this stage would mean exercising powers of the Sessions Court under section 227 of Cr. P.C.

This petition must therefore fail at the thresh-hold. It is hereby rejected summarily.

(SMT. R.S. DALVI J.)(B.H.MARLAPALLE J.)